

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND DIVISION

IN RE:) CASE NO. 21-13688-aih
)
Susan Della Workman,) CHAPTER 13
aka Susan D. Workman,)
aka Susan Workman.) JUDGE Arthur I. Harris
)
Debtor.)
) **OBJECTION BY THE BANK OF NEW
YORK MELLON FKA THE BANK OF
NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWALT,
INC., ALTERNATIVE LOAN TRUST
2004-28CB, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2004-28CB, TO CONFIRMATION OF
DEBTORS' CHAPTER 13 PLAN (DOC
NO. 5)**

COMES NOW Secured Creditor, The Bank of New York Mellon fka The Bank of New York as Trustee for The Certificateholders of Cwalt, Inc., Alternative Loan Trust 2004-28cb, Mortgage Pass-Through Certificates, Series 2004-28cb, (“Secured Creditor”), by and through its undersigned counsel, and files this written objection to confirmation of Debtor’s Proposed Chapter 13 Plan filed on October 30, 2021, as docket number 5, pursuant to Bankruptcy Rules §3015(f), §9014 and all other applicable provisions of the Bankruptcy Code for the reasons set forth in the Memorandum below.

MEMORANDUM

The Bank of New York Mellon fka The Bank of New York as Trustee for The Certificateholders of Cwalt, Inc., Alternative Loan Trust 2004-28cb, Mortgage Pass-Through Certificates, Series 2004-28cb (“Secured Creditor”) hereby objects to Debtors’ Chapter 13 Plan and states as follows:

1. On October 28, 2004, Debtor executed and delivered a Promissory Note (“Note”) and a Mortgage (“Mortgage”) securing payment of the Note in the amount of \$99,680.00 to Countrywide Home Loans, Inc. The Mortgage was recorded on October 29, 2004, in Instrument Number 2004R050906 of the Public Records of Lake County, Ohio. The loan was transferred to Secured Creditor which granted Secured Creditor a first lien on the real property located at 383 E. 327th Street, Willowick, OH 44095, the (“Subject Property”) legally described as:

~~Situated in the City of Willowick, County of Lake, and State of Ohio:
And known as being Sub-Lot No. 220 in Permanent Homes Subdivision of
part of Original Willoughby Township Lots Nos. 4 and 5, Tract
No. 16, as shown by the recorded plat in Volume F. of Maps,
Page 64 of Lake County Records and being 45 feet front on the
Northeasterly side of 327th Street (formerly Ellisworth Drive)
and extending back 116 feet deep and having a rear line of 45
feet, as appears by said plat, be the same more or less, but
subject to all legal highways.~~

2. The amount Secured Creditor’s claim as of the date of filing will be set forth in the Secured Creditor’s Proof of Claim to be filed on or before the Claims Bar Date, January 8, 2022.
3. The Plan fails to include the correct pre-petition arrearage amount. It is anticipated that Secured Creditor’s claim will show the pre-petition arrearage due to Secured Creditor is \$108,227.21, whereas the Plan proposes to pay only \$85,579.36. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§1322(b)(3) and 1325(a)(5) and cannot be confirmed.

4. The Chapter 13 Plan does not comply with 11 U.S.C. §1325 and 11 U.S.C. §1322 as the Plan fails to cure the pre-petition default and is not accepted by the Secured Creditor.

WHEREFORE, Secured Creditor respectfully requests that this Court sustain the objections stated herein and deny confirmation of the Debtor's Plan, and for such other and further relief as this Court deems just and proper.

DATED this 8th day of November, 2021.

Respectfully submitted,

/S/ Seth Greenhill

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was forwarded by either ECF Noticing or Regular U.S. Mail on November 8 2021.

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Richard H. Nemeth
electronic notification

Lauren A. Helbling
electronic notification

And by regular U.S. mail, postage prepaid, on:

Susan Della Workman, Debtor, 383 E. 327th Street, Eastlake, OH 44095

PADGETT LAW GROUP

/s/ Seth Greenhill

Seth Greenhill, Esq. (#99380)